



Focus

Voluntary Cleanup Program

The Department of Ecology has combined all services provided to persons conducting voluntary cleanups under a new program called the **Voluntary Cleanup Program (VCP)**. *Independent cleanups* are cleanups conducted without Ecology oversight or approval and not under an order or decree. *Voluntary cleanups* are cleanups initiated by a person other than Ecology. Voluntary cleanups can be conducted completely independent of Ecology, independent with some Ecology assistance or review, or with Ecology oversight under a signed legal agreement (an agreed order or a consent decree.)

The Voluntary Cleanup Program includes a range of opportunities for assistance; from a simple telephone consultation on a completely independent cleanup to full oversight with a signed legal agreement (an agreed order or a consent decree.)

The Voluntary Cleanup Program includes:

- **Ecology Consultations:** for sites undergoing an independent investigation or cleanup. Assistance is provided for site-specific technical or administrative issues related to compliance with the state cleanup law or regulations. Available anytime - before, during, or after a cleanup. A written agency opinion may be provided upon request. Generally, the first hour of Ecology's time will be provided without charge. There will be a charge for additional hours.
- **Prepayment Agreement:** for sites where responsible parties request Ecology oversight. The responsible party agrees in advance to pay Ecology's costs associated with the preparation of an order or decree and oversight of the investigation and cleanup.
- **Prospective Purchaser Agreement:** for sites where a person who isn't currently responsible for a contaminated site wishes to purchase the property, determine their cleanup responsibility, and redevelop or reuse the property. Prepayment agreements are used to negotiate a consent decree with these "prospective purchasers." Payment of Ecology costs is the same as under a Prepayment Agreement.

Another purpose of the Voluntary Cleanup Program is:

- **Brownfield's Redevelopment:** a specially targeted cleanup effort aimed to get abandoned or under-used properties back into productive use.

Voluntary Cleanup Program Services

Ecology consultation for independent cleanups: Ecology may provide informal consultations on site-specific technical or administrative issues; provide review of investigation, sampling or cleanup plans; and may provide written opinions (including no further action letters). Consulting Ecology early in the investigation and cleanup process and obtaining informal Ecology advice on sampling or design plans can provide greater assurance that the actions are likely to meet state requirements.

You may request a technical consultation from Ecology during any phase of your independent investigation or cleanup. You may request assistance on specific issues, or for your entire independent investigation and cleanup.

Ecology has always provided free consultation on issues related to implementation of the Model Toxics Control Act and its regulation. Typically these consultations have been limited to an hour either on the phone or in person. This assistance will continue and may now include consultation on site-specific issues.

If the level of consultation you desire for your site is more in-depth or time consuming for Ecology staff than that provided without charge, you have the option of continuing your consultation by entering into an agreement to reimburse Ecology for its costs of providing you assistance. Requests for Ecology's assistance at independent cleanup sites are generally conducted on a first-come, first-served basis as resources permit.

If you have specific time-constraints, you should make those known to Ecology in advance so Ecology can determine if your timing needs can be accommodated.

Ecology opinions will address whether the cleanup actions or proposed actions meet the substantive requirements of the state cleanup law, and/or whether the department believes further remedial action is necessary at the site. Ecology will

not provide opinions about who is legally responsible for contamination at a site (e.g., groundwater contamination) or other legal issues.

If the cleanup meets state requirements, Ecology may issue a written “No Further Action” determination. However, this “No Further Action” does not resolve a person’s liability with the state or protect a person from third-party lawsuits. Ecology consultations are advisory, and are not binding on the department.

Final cleanup reports previously reviewed under the Independent Remedial Action Program (IRAP) will now fall under this component of the Voluntary Cleanup Program, and will be billed at an hourly rate.

If you wish to have an Ecology Consultation, a request for assistance form must be submitted to Ecology with a \$500 deposit. The deposit will usually cover 8 hours of Ecology’s time, but this may vary depending on the salary of the person providing you assistance. If the entire \$500 deposit is not spent during the consultation period, the remaining amount will be refunded. If additional fees are required, the requestor agrees to reimburse Ecology for the time spent on his/her site at a specified rate (see “Cost of Services” section below.)

Prepaid Oversight Agreement

Under this option, a responsible party pays in advance for a portion of Ecology’s time needed to develop an agreed order or consent decree (legal documents that identify site investigation and cleanup requirements). Under these agreements, Ecology is responsible for overseeing the activities at a site, and therefore the responsible party receives a greater assurance that the actions they take will meet state requirements. By receiving prepayment for its oversight costs from the responsible party, Ecology can prevent the disruption of its work on higher priority cleanups yet provide assistance to those motivated to voluntarily resolve their own environmental problems.

Under an agreed order, the responsible party agrees to perform the specified remedial activities. Under a consent decree, the voluntary party may also receive an agreement from Ecology and the Office of the Attorney General not to require further action at the site (a covenant not to sue.) A consent decree also protects a potentially liable person from third-party contribution lawsuits.

Prospective Purchaser Agreement

Prospective Purchaser Agreements are site cleanup agreements among Ecology, the Office of the Attorney General, and a prospective purchaser. Prospective Purchaser Agreements require a signed prepayment agreement to cover the costs of negotiation. To qualify, the prospective purchaser must not currently be liable for the remedial action at the property. In addition, the proposed redevelopment or reuse must not be likely to contribute to the existing contamination, increase health risks at or near the site, or interfere with the cleanup actions at the site.

These agreements are useful for persons considering the purchase of a facility who wish to establish the extent of cleanup needs and resolve liability concerns prior to completing the property transaction. Prospective Purchaser Agreements are entered into only as a Consent Decree. In exchange for a settlement of liability with the state, the prospective purchaser must agree to contribute substantial new resources to the remedial action and expedite remedial action at the facility in conjunction with redeveloping or reusing the property.

Evaluating Voluntary Cleanup Options

While evaluating which of the voluntary options above best suits your needs, you should consider the complexity of your site, the time required to complete each of the processes, the level of control you want over your cleanup, and the outcome you desire (an NFA letter, or a settlement of liability). Obtaining an order or decree from Ecology (under a prepayment or prospective purchaser agreement) is usually a more time consuming and costly process than an Ecology consultation on an independent cleanup, but provides a greater assurance that state standards will be met.

If you have time constraints (such as property transactions or construction season considerations), then the informal consultation may better suit your needs, although this will provide less certainty with regard to future cleanup liability than that gained working under an order or decree.

Brownfield’s Redevelopment

The final component of Ecology’s Voluntary Cleanup Program is *Brownfields Redevelopment*. Brownfields are types of properties being cleaned up rather than types of services available under the program. Ecology is committed to

focusing resources to Brownfields issues because of the public benefit associated with moving the properties back into productive use.

Brownfields are properties that have been abandoned or are under-used because of environmental contamination from past industrial or commercial practices. Liability concerns and area-wide contamination often complicate the cleanup and redevelopment of these sites. As a result, the properties may remain unused or under-used, and contaminated for years.

Many Brownfields are located on prime real estate, near utilities, city centers or key waterways, with a readily available work force and clientele. The cleanup and reuse of Brownfields can create jobs, increase the tax base, provide open space, enhance recreational or leisure opportunities, and help curb growth pressures and preserve the remaining “Greenfields” in communities. Persons redeveloping Brownfields may use any of the Voluntary Cleanup Program services and may qualify for special state or federal incentives, such as tax programs and financial assistance.

Voluntary Cleanup Program Services

SERVICES OFFERED	STAGE OF CLEANUP	COST	OUTCOME
Ecology Consultation on Independent Cleanups	Any	\$500 Deposit; Total charge dependent on number of hours required	Non-binding Consultation Informal Advice (written agency opinion upon request)
Prepaid Oversight Agreement Agreed Order	Prior to final cleanup action	Deposit required; Billed quarterly	Agreement on Scope of Work
Prepaid Oversight Agreement Consent Decree	Prior to final cleanup action	Deposit required; Billed quarterly	Settlement of liability
Prospective Purchaser Agreement Consent Decree	Prior to final cleanup action	Deposit required; Billed quarterly	Settlement of liability

Cost of Services

Ecology Consultations

Other than any free assistance provided, Ecology consultations will be billed at an hourly rate. The rate is a function of direct staff costs plus support costs. Hourly rates generally range from \$50 to \$100, depending on the salary of the person assigned to your cleanup. It is also possible that more than one person will be consulting on your project and that each person earns a different salary. You will be charged appropriately for the number of hours each person spends on your site.

A \$500 deposit is required to initiate a consultation. Any unspent portions of the deposit will be refunded when Ecology has completed its consultation. If the deposit does not cover the total cost of your consultation, Ecology will bill you for any remaining costs.

Prepaid Oversight Agreements/Prospective Purchaser Agreements

A contract guaranteeing payment of Ecology costs is required. A deposit equal to 25% of the estimated costs of developing an Agreed Order or Consent Decree is required. Ecology costs are billed and payable quarterly.

Requesting a Consultation for a Fee

Ecology consultations are requested by submitting the following information to the Ecology office in the region where your site is located. You can obtain these forms by contacting any of the Ecology offices listed below.

- Request for Assistance Form (ECY 020-74);
- Completed Site Summary Form (ECY 020-73);
- Any existing reports on the site; and
- \$500 refundable deposit.

Requesting a Prepaid Oversight Agreement or a Prospective Purchaser Agreement

To request a prepayment or prospective purchaser agreement, contact the Voluntary Cleanup Program Coordinator at the Ecology regional office where your site is located.

CENTRAL REGION

(Benton, Chelan, Douglas, Kittitas, Klickitat, Okanogan, & Yakima counties)

15 West Yakima Avenue, Suite 200

Yakima WA 98902-3452

Voice: (509) 575-2490

TDD only: (509) 454-7673

VCP Coordinator: Frosti Smith: (509) 454-7841

E-mail: fsmi461@ecy.wa.gov

NORTHWEST REGION

(Island, King, Kitsap, San Juan, Skagit, Snohomish, & Whatcom counties)

3190 160th Ave. SE

Bellevue WA 98008-5452

Voice: (425) 649-7000

TDD only: (425) 649-4259

VCP Administrator: Dale Myers: (425) 649-4446

VCP Coordinator: Joe Hickey: (425) 649-7202

E-mail: jhic461@ecy.wa.gov

EASTERN REGION

(Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla, & Whitman counties)

4601 N. Monroe, Suite 202

Spokane WA 99205-1295

Voice: (509) 329-3400

TDD only: (509) 458-2055

VCP Coordinator: Patti Carter: (509) 329-3522

E-mail: paca461@ecy.wa.gov

SOUTHWEST REGION

(Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, & Wahkiakum counties)

P.O. Box 47775

Olympia WA 98504-7775

Voice: (360) 407-6300

TDD only: (360) 407-6306

VCP Coordinator: Chuck Cline: (360) 407-6267

E-mail: chcl461@ecy.wa.gov

More Information

For more information on the *Voluntary Cleanup Program* or Ecology consultations, please contact Nnamdi Madakor VCP Policy and Technical Manager (360) 407-7244, or Trish Akana VCP Financial Manager (360) 407-7230. TTY (800) 833-6388 or 711.

Guidance Available for Voluntary Cleanups

The following guidance documents may provide assistance to persons conducting voluntary cleanups: To obtain these publications you may call 1-800-826-7716, or contact Carol Dorn at (360) 407-7224, or by e-mail: cesg461@ecy.wa.gov

- Voluntary Cleanup Program Frequently Asked Questions (FAQs), Publication No. ECY 97-98
- Analytical Methods for Petroleum Hydrocarbons, June 1997, Publication No. ECY 97-602
- Guidance on Sampling and Data Analysis Methods, January 1995, Publication No. 94-49
- Hazardous Waste Cleanups: Selecting an Environmental Consulting Firm, Ecology Report R-TC-92-116
- Workbook Tools for Calculating Soil and Ground Water Cleanup Levels under the Model Toxics Control Act Cleanup Regulation and User's Guide (<http://www.ecy.wa.gov/programs/tcp/tools/toolmain.html>)
- Cleanup Levels and Risk Calculations (CLARC) V. 3.1 (<http://www.ecy.wa.gov/programs/tcp/tools/toolmain.html>)